

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
EASTERN DIVISION**

WAYNE BIGGINS,)
)
Petitioner,)
)
v.) Civil Action No. CV 06-S-64-E
)
D. B. DREW, Warden,)
)
Respondents.)

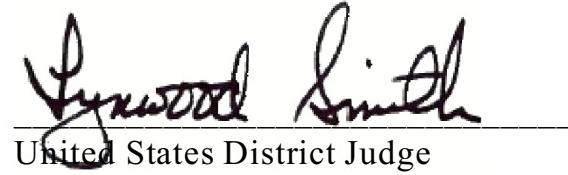
MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on April 10, 2006, recommending that the petition of Wayne Biggins, filed pursuant to 28 U.S.C. § 2255, be DISMISSED as a second or successive petition over which the court has no jurisdiction. Alternatively the magistrate judge recommended that the § 2255 motion be DENIED as the Supreme Court's *Booker*, *Blakely* and *Apprendi* decisions are not to be applied retroactively to a case on collateral review. Objections were filed by petitioner on April 24, 2006.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the magistrate judge's findings and recommendation and the objections filed by petitioner, the Court is of the opinion that the magistrate judge's findings are due to be ADOPTED, and his recommendation ACCEPTED. Accordingly, the

petition is due to be DISMISSED or, in the alternative, the § 2255 motion is DENIED. A Final Judgment will be entered.

ORDERED this 28th day of April, 2006.



A handwritten signature in black ink, appearing to read "Lynnwood Smith". The signature is fluid and cursive, with "Lynnwood" on the left and "Smith" on the right. Below the signature is a horizontal line.

United States District Judge